

United States Court of Appeals For the First Circuit

No. 07-2396



#230

UNITED STATES,

Appellee,

v.

REYNALDO GONZALEZ-RIVERA, (3)

Defendant, Appellant.

Before

Lipez, Selya and Howard,
Circuit Judges.

JUDGMENT

Entered: August 22, 2008

In a prior appeal, United States v. Garcia-Carrasquillo, 483 F.3d 124 (1st Cir. 2007), a panel of this court vacated defendant's sentence for lack of an adequate explanation by the district court and remanded for resentencing. On resentencing, the same district judge increased defendant's sentence by over four years without any explanation for the increase. We have carefully reviewed the briefs and the record and note that the government here concedes error. In light of the substantially increased sentence (which the government did not seek) and the lack of explanation, we again vacate the defendant's sentence and remand for resentencing and explanation before a different district judge. The defendant may also raise any issue concerning application of 18 U.S.C. § 3582(c) in the district court.

Vacated and remanded, with instructions for reassignment.

By the Court:

/s/ Richard Cushing Donovan, Clerk.

03-220 (cc)

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CC:

Bazan-Gonzalez, Antonio R.
Perez-Sosa, Nelson J.
Ramirez-Becerra, Maria Soledad